IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 8531 of 2007(N)

PETITIONER:

SHIBU,
THAVITTAKIZHAKKETHIL HOUSE, ELANTHOOR EAST P.O.,
PATHANAMTHITTA.

BY ADV. SRI.O.D.SIVADAS

RESPONDENT:

THE REGISTERING AUTHORITY,
PATHANAMTHITTA, (THE REGIONAL TRANSPORT OFFICER).

BY GOVERNMENT PLEADER SMT.N.SUDHADEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RELEVANT PORTION OF THE R.C.BOOK OF THE PETITIONER'S VEHICLE NO.KL 9/N 561

EXT.P2 TRUE COPY OF THE ORDER NO.C1/4679/07/PTA DATED 21.02.2007 ISSUED BY THE RESPONDENT.

EXT.P3 TRUE COPY OF THE JUDGMENT IN O.P.NO.2637 OF 2003 DATED 06/07/2004 PASSED BY THIS COURT.

/ TRUE COPY /

K.BALAKRISHNAN NAIR, J.

W.P. (C) No.8531 of 2007

Dated this the 3rd day of April, 2007.

JUDGMENT

The petitioner is the registered owner of a stage carriage bearing registration No.KL-9/N 561. It is a 1994 model vehicle. He purchased it on 2.1.2007. He wanted to convert the vehicle into a generator van for which he submitted an application before the respondent. The said application was rejected by Ext.P2. The reason given in Ext.P2 is as follows:

> "Section 52 of M.V. Act prohibits alteration of vehicle as regards the changes in the structure of a vehicle resulting in change in its basic feature, originally specified by the Manufacture, and at variance with those in the certificate of registration."

2. The petitioner submits that the said finding cannot stand with Ext.P3 judgment of this Court, in which, the case of another similar vehicle was considered. So the petitioner prays for quashing Ext.P2 and allowing the writ petition in the light of Ext.P3 judgment.

3. The respondent has filed a counter affidavit. He has reiterated the stand taken in Ext.P2. Learned Government Pleader appearing for the respondent also pointed out that the

vehicle involved in Ext.P3 judgment was a 15 year old vehicle whereas the petitioner's vehicle is only 13 years old. So she attempted to distinguish Ext.P3 judgment of this Court on facts. But I think the said distinguishing feature will not have any effect on the principles laid down in that decision. No one has a case that Ext.P3 is challenged in appeal or reversed. As long as Ext.P3 holds the field, - I am bound to follow that.

Accordingly the writ petition is allowed and Ext.P2 is quashed. The respondent is directed to grant conversion of the vehicle as prayed for.

K.BALAKRISHNAN NAIR,
Judge

vns.